

Hon. Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

APERTURE NET LLC,

Plaintiff,

v.

SYNOLOGY AMERICA CORP.,

Defendant.

Case No. 2:21-cv-00711-RAJ

ORDER SETTING
PATENT CASE SCHEDULE

Having considered the parties' Joint Status Report (Dkt. # 20), the Court enters the following case schedule:

| EVENT | DATE |
|---|-------------------|
| Plaintiff to Serve Preliminary Infringement Contentions and Disclosure of Asserted Claims | October 13, 2021 |
| Deadline to Join Additional Parties | October 29, 2021 |
| Defendant to Serve Preliminary Non-Infringement and Invalidity Contentions and accompanying document production | December 2, 2021 |
| Parties to exchange Proposed Terms and Claim Elements for Construction | December 17, 2021 |
| Parties to Exchange Preliminary Claim Constructions and Extrinsic Evidence | January 3, 2022 |
| Parties to file Joint Claim Chart and Prehearing Statement | February 15, 2022 |

| EVENT | DATE |
|--|---|
| Claim Construction Expert Disclosures (if any) | March 7, 2022 |
| Completion of Claim Construction Discovery | April 6, 2022 |
| Parties to file simultaneous Opening <i>Markman</i> Briefs | April 11, 2022 |
| Parties to file simultaneous Responsive <i>Markman</i> Briefs | April 26, 2022 |
| Tutorial | To be set by the Court, if needed |
| <i>Markman</i> Hearing | To be set by the Court |
| Substantial Completion of Production of Documents and Things | 30 days after Claim Construction Order |
| End of Fact Discovery | 90 days after Claim Construction Order |
| Expert Disclosures under Fed. R. Civ. P. 26 on issues on which the Party bears the burden of proof | 120 days after Claim Construction Order |
| Rebuttal expert disclosures | 150 days after Claim Construction Order |
| Complete depositions of all expert witnesses/close of expert discovery | 165 days after Claim Construction Order |
| Dispositive Motions and/or <i>Daubert</i> Motions | 190 days after Claim Construction Order |
| Response to dispositive motions | 220 days after Claim Construction Order |
| Reply supporting dispositive motions | 240 days after Claim Construction Order |
| Pretrial Conference | To be set by the Court |
| Trial date and remaining pretrial deadlines | To be set by the Court |

These dates are set at the direction of the Court after reviewing the Joint Status Report submitted by the parties. All other dates are specified in the Local Civil Rules and/or Local Patent Rules. **These are firm dates that can be changed only by order of the Court, not by agreement of counsel or the parties. The Court will alter these dates only upon good cause shown.**

ALTERATION TO ELECTRONIC FILING PROCEDURES

Counsel are required to electronically file all documents with the Court. Pro se litigants may file either electronically or in paper form. Information and procedures for electronic filing can be found on the Western District of Washington's website at www.wawd.uscourts.gov/ElectronicFiling/ECFHomepage.htm.

The following alteration to the Filing Procedures apply in all cases pending before Judge Jones:

Mandatory chambers copies are required for all e-filed motions, responses, replies, and surreplies, and all supporting documentation relating to motions, regardless of page length.

The paper copy of the documents (with tabs or other organizing aids as necessary) shall be delivered to the Clerk's Office by 12:00 p.m. on the business day after filing. The chambers copy must be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers." The parties are required to print all courtesy copies from CM/ECF using the "Include headers when displaying PDF documents" feature under "Document Options." This requirement applies also to pleadings filed under seal.


EXHIBITS

The original and one copy of any exhibits to be used at any claim construction hearing or trial are to be delivered to chambers no later than 4:00 p.m. three days before the hearing or trial. Each exhibit shall be clearly marked. Exhibit tags are available in the Clerk's Office. The Court hereby sets forth the following procedure for numbering exhibits: Plaintiff's exhibits shall be numbered consecutively beginning with 1. Defendant's exhibits shall be numbered consecutively after Plaintiff's exhibits using the next number sequence not used by Plaintiff (*e.g.*, if Plaintiff has marked 150 exhibits, Defendant shall mark its exhibits beginning with 200). Duplicate documents shall not be listed twice. Once a party has identified an exhibit, any party may use it. Each set of exhibits shall be submitted in a three-ring binder with appropriately numbered tabs.

SETTLEMENT

Should this case settle, counsel shall notify Victoria Ericksen as soon as possible at victoria_ericksen@wawd.uscourts.gov. An attorney who fails to give the Court prompt notice of settlement may be subject to such discipline as the Court deems appropriate.

DATED this 28th day of September, 2021.


The Honorable Richard A. Jones
United States District Judge

Sample Joint Claim Chart

| Claim Language (Disputed Terms in Bold) ‘123 Patent | Plaintiff’s Proposed Construction and Evidence in Support | Defendant’s Proposed Construction and Evidence in Support |
|---|---|--|
| <p>1. A method for mending fences</p> <p>[or]</p> <p>fences</p> <p>Found in claim numbers:</p> <p>‘123 Patent: y, z ‘456 Patent: a, b</p> | <p>fence</p> <p><u>Proposed Construction:</u> A structure that keeps things out.</p> <p><u>Dictionary/Treatise Definitions:</u> Merriam-Webster Dictionary (“a barrier intended to prevent . . . intrusion”).</p> <p><u>Intrinsic Evidence:</u> ‘123 Patent col __: __ (“keeps stray animals out”); Prosecution History at __ (“this method is more effective than the prior art in reinforcing the fence, and therefore in keeping out unwanted intruders”).</p> <p><u>Extrinsic Evidence:</u> R. Frost Depo. at xx:xx (“Good fences make good neighbors”); ‘000 Patent at col __: __; Vila Decl. at ¶ __.</p> | <p>fence</p> <p><u>Proposed Construction:</u> A structure that keeps things in.</p> <p><u>Dictionary/Treatise Definitions:</u> Random House Dictionary (“a barrier enclosing or bordering a field, yard, etc.”).</p> <p><u>Intrinsic Evidence:</u> ‘123 Patent col: __ (“keeps young children from leaving the yard “); Prosecution History at __ (“dilapidated fences meant to pen in cattle are particularly amenable to this method”).</p> <p><u>Extrinsic Evidence:</u> C. Porter Depo. at xx:xx (“Don’t fence me in”); ‘111 Patent at col __: __; Thomas Decl. at ¶ __.</p> |

(or similar format that provides side-by-side comparison)